



Reprinted
March 4, 2003

HOUSE BILL No. 1268

DIGEST OF HB 1268 (Updated March 3, 2003 7:48 PM - DI 105)

Citations Affected: IC 31-34.

Synopsis: Presumption concerning child sexual abuse. Establishes a rebuttable presumption that a child is a child in need of services (CHINS) if: (1) another child in the same household has been the victim of a sex offense; (2) the offense was committed by an adult living in the same household; and (3) the offense resulted in the conviction of the adult or a CHINS adjudication as it relates to the child victim. Provides that a child presumed to be a child in need of services may not be taken into custody or emergency custody unless the court finds first finds cause following a hearing.

Effective: July 1, 2003.

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January 13, 2003, read first time and referred to Committee on Courts and Criminal Code.
February 25, 2003, amended, reported — Do Pass.
March 3, 2003, read second time, amended, ordered engrossed.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1268

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-34-1-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** A child is a child
3 in need of services if before the child becomes eighteen (18) years of
4 age:
5 (1) the child is the victim of a sex offense under:
6 (A) IC 35-42-4-1;
7 (B) IC 35-42-4-2;
8 (C) IC 35-42-4-3;
9 (D) IC 35-42-4-4;
10 (E) IC 35-42-4-7;
11 (F) IC 35-42-4-9;
12 (G) IC 35-45-4-1;
13 (H) IC 35-45-4-2; or
14 (I) IC 35-46-1-3; and
15 (2) the child needs care, treatment, or rehabilitation that the child:
16 (A) is not receiving; and
17 (B) is unlikely to be provided or accepted without the coercive

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intervention of the court.

(b) A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as a child who is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2; or

(I) IC 35-46-1-3; and

(2) the child needs care, treatment, or rehabilitation that the child:

(A) is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 2. IC 31-34-12-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) A rebuttable presumption is raised that a child is a child in need of services if the state establishes that:**

(1) another child in the same household is the victim of a sex offense described in IC 31-34-1-3; and

(2) the sex offense described in IC 31-34-1-3:

(A) was committed by an adult who lives in the household with the child; and

(B) resulted in a conviction of the adult or a judgment under IC 31-34-11-2 as it relates to the child against whom the sex offense was committed.

(b) The following may not be used as grounds to rebut the presumption under subsection (a):

(1) The child who is the victim of the sex offense described in IC 31-34-1-3 is not genetically related to the adult who committed the act but the child presumed to be the child in need of services under this section is genetically related to the adult who committed the act.

(2) The child who is the victim of the sex offense described in IC 31-34-1-3 differs in age from the child presumed to be the child in need of services under this section.



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1 (c) A child presumed to be a child in need of services under this
2 section may not be taken into custody or emergency custody under
3 IC 31-34-2 unless the court first finds cause to take the child into
4 custody or emergency custody following a hearing in which the
5 parent, guardian, or custodian of the child is accorded the rights
6 described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1268, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1268 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 8, nays 3.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1268 be amended to read as follows:

Page 2, after line 42, begin a new paragraph and insert:

"(c) A child presumed to be a child in need of services under this section may not be taken into custody or emergency custody under IC 31-34-2 unless the court first finds cause to take the child into custody or emergency custody following a hearing in which the parent, guardian, or custodian of the child is accorded the rights described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5)."

(Reference is to HB 1268 as printed February 26, 2003.)

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